



CALIFORNIA STATE PERSONNEL BOARD

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – APRIL 17, 2007

MID MONTH BOARD MEETING MINUTES¹

APRIL 17, 2007

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

**Sean Harrigan, President
Anne Sheehan, Vice President
Richard Costigan, Member**

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

- A.** The Department of General Services has issued the intent to award the contract for SPB's Examination and Certification System. JobAps has won the bid. There will be a five-day protest period which takes us through Tuesday at 5:00 p.m. If there are no protests we will submit a Special Project Report (SPR) to the Department of Finance. Once Finance approves the SPR, we can sign the contract and begin the project.
- B.** Karen Coffee, Chief, Merit Employment and Technical Resources Division, State Personnel Board, briefed the Board Members on her experience of attending the Opening of the Bids. Ms. Coffee shared with the Board that "Job Apps" had the most points and was also the low bidder. It filed a temporary restraining order after it appeared that it was going to be the award recipient because they had included trade secrets in its documentation offering. Redacted information was accepted by DGS before the information was released. SPB anticipates starting work within 30 days.
- C.** Today is Floyd Shimomura's last board meeting as Executive Officer.

3. REPORT OF THE CHIEF COUNSEL – Elise Rose

- A.** The Receiver has filed a motion regarding his Career Executive Assignment proposal. Staff is informed that he intends to file a motion shortly regarding a proposed discipline system for physicians at CDCR.

¹ The Minutes for the Board Meetings can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

April 17, 2007

- B. A petition for depublication has been filed with the California Supreme Court regarding the Snell v. SPB case, involving the issue of whether an employee may be disciplined for dishonesty in an investigatory interview even though the underlying conduct is barred by the statute of limitations. There is a split in the courts on the issue.
- C. The California Supreme Court issued its decision in the case of the Professional Engineers in California Government v. Kempton last week. Staff will follow up with information to the Board on the impact of this decision on the Board's activities.
- D. SPB has posted the job announcement for Staff Counsel III.

4. NEW BUSINESS

NONE PRESENTED

5. REPORT ON LEGISLATION – State Personnel Board Staff

NONE PRESENTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

6. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

7. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]
(See Action Taken on Pages 11–16)

8. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

Patrick McCollum v. State of California
United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.
Case No. C01-1351 TEH

9. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

SB 1019 (ROMERO)

The purpose of this bill is to restore public access to peace officer disciplinary hearings and records in the same manner that all other civil service employee disciplinary hearings are open to the public.

POSITION: SUPPORT IF AMENDED

10. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

NO ACTION

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

**11. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF
MAY 8, 2007, IN SACRAMENTO, CALIFORNIA**

NONE

BOARD ACTIONS:

**12. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF
MARCH 21, 2007**

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Costigan – Aye

13. EVIDENTIARY CASES

ACTION: See Case Listings on Pages 11–18

**14. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE
SECTION 18671.1 EXTENSION - (See Minutes on Pages 26–27)**

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Costigan – Aye

15. NON-EVIDENTIARY CASES

ACTION: See Case Listings on Pages 19–22

16. NON-HEARING CALENDAR

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

- A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR
DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH,
REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE
CRITERIA, ETC.**

NONE

- B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS
FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE
CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO
OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

**THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE
PERSONNEL BOARD** propose to abolish the following unused
classifications, which have been vacant for more than twenty-four months.
Departments that utilize the class as well as the appropriate union have no
objection to the abolishment of these classes. When classes are
proposed to be abolished which are part of a class series, and other
classes within the series will continue to be used, the class specification is
included in the board item.

NONE

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

DEPUTY DIRECTOR, EXTERNAL AFFAIRS AND SPECIAL ADVISOR TO THE COMMISSIONERS

The Department of Fish and Game Commission proposes to allocate the above position to the CEA category. The Deputy Director, External Affairs and Special Advisor to the Commissioners is responsible for making independent policy decisions on legislative issues and political strategies, and participating in regulatory and policy development, and external affairs discussions with State, Federal, and local governments.

SPECIAL ADVISOR, POLICY AND PROGRAMS

The Department of the Inspector General proposes to allocate the above position to the CEA category. The Special Advisor will serve as an advisor to the executive team members, functioning as an independent and objective body that reviews, evaluates, and recommends policy regarding issues and concerns within the mandate and responsibilities of the Office of the Inspector General.

DEPUTY DIRECTOR, ELECTRICITY SUPPLY ANALYSIS DIVISION (ESAD)

The California Energy Commission proposes to allocate the above position to the CEA category. The Deputy Director will be the principal policy-maker for ESAD; and be responsible for the effective formulation, implementation and evaluation of policy and procedures; influencing and setting policy based on the Administration's goals, government code and legislative mandate.

CHIEF OMBUDSMAN, OFFICE OF THE OMBUDSMAN

The Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The Chief Ombudsman serves as the key policy and public relations expert, researches critical issues, and develops recommendations as a result of findings.

April 17, 2007

**DEPUTY DIRECTOR, STRATEGIC PLANNING AND DEVELOPMENT
BRANCH**

The Department of Corrections and Rehabilitation (CDCR), Division of Correctional Health Care Services (DCHCS) proposes to allocate the above position to the CEA category. The Deputy Director will be developing and implementing strategic initiatives and projects including litigation compliance, policies, procedures and guidelines and making modifications that enables DCHCS to achieve the goals and objectives outlined in the CDCR Strategic Plan.

CHIEF OF PUBLIC AFFAIRS

The Bureau of State Audits proposes to re-allocate the existing CEA position titled Director of Professional Practices to the above titled position. The Chief of Public Affairs performs varied and critical services regarding public relations and the dissemination of information; and the formulation of policies, plans and procedures to achieve the goals and mission of the bureau.

DEPUTY DIRECTOR OF ENFORCEMENT DIVISION

The Department of Fair Employment and Housing (DFEH) proposes to re-establish the above position to the CEA category. The Deputy Director, Enforcement, is responsible for the Department's most sensitive, critical and complex policy issues and for establishing and maintaining internal policies and programs and external education and prevention programs.

MANAGER, LAKE DAVIS PIKE ERADICATION PROJECT

The Department of Fish and Game (DFG) proposes to allocate the above position to the CEA category. The Manager is responsible for developing and recommending fisheries and wildlife management related policies and regulations and practices.

CHIEF, BIOGEOGRAPHIC DATA BRANCH

The Department of Fish and Game proposes to allocate the above position to the CEA category. The Chief is the principal policymaker for the Branch and plans, organizes, and directs an inter-disciplinary staff in the performance of a wide variety of complex and sensitive data management.

CHIEF, FISHERIES BRANCH

The Department of Fish and Game proposes to re-allocate the existing CEA position titled Fisheries Programs Branch to the above position. The Chief of the Fisheries Branch develops, recommends, and implements program policies, procedures, and activities to resolve complex statewide biological and/or sociological problems involving aquatic resource assessment, watershed assessment and restoration, fish hatchery coordination and fish disease control.

DEPUTY DIRECTOR, RESOURCE MANAGEMENT AND POLICY DIVISION

The Department of Fish and Game proposes to re-allocate the existing CEA position titled Wildlife and Inland Fisheries Division (formerly titled Deputy Director of Policy) to the above position. The Deputy Director has authority to directly influence statewide policy affecting the Department's mission and oversees and provides policy guidance to the Division, which consists of five policy and program coordination branches.

REGIONAL MANAGER, MARINE REGION

The Department of Fish and Game (DFG) proposes to re-allocate the existing CEA position titled Marine Regional Manager (formerly titled Chief of the Marine Resources Division) to the above position. The Regional Manager organizes, directs and oversees implementation of the DFG's statewide marine resource programs including the development and implementation of region-wide policies, programs, short and long-term goals and objectives, budget and staffing.

CHIEF, WATER BRANCH

The Department of Fish and Game proposes to re-allocate the existing CEA position titled Central Valley Bay-Delta Branch to the above position. The Chief, Water Branch plans, organizes, and directs a wide variety of complex and sensitive activities involving statewide water policy and management in relation to the protection of fish and wildlife.

CHIEF, WILDLIFE BRANCH

The Department of Fish and Game proposes to re-allocate the existing CEA position titled Wildlife Programs Branch to the above position. The Chief, Wildlife Branch is responsible for guiding the development of policy and direction for the State's wildlife conservation and management activities, lands management direction and priorities, and programs; and for coordinating and communicating the implementation of such policy statewide.

DEPUTY DIRECTOR, REGIONAL OPERATIONS DIVISION

The Department of Fish and Game proposes to re-allocate the existing CEA position titled Habitat Conservation Division to the above position. The Deputy Director, Regional Operations Division advises the Director and Chief Deputy Director on matters relating to the operational activities of seven regions including species and habitat conservation efforts, species recovery, conservation of the state's biological diversity, and has a decisive role in the Department's highest policy making decisions.

CHIEF, HABITAT CONSERVATION BRANCH

The Department of Fish and Game proposes to re-allocate the existing CEA position titled Habitat Conservation Planning Branch to the above position. The Chief, Habitat Conservation Branch advocates for the department's goals and objectives for wildlife and habitat conservation, identifies policy development and modification needs relative to the department's mission and mandates, and oversees creation and modification of policies.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

DEPUTY DIRECTOR, PLATA PERSONNEL SERVICES & STAFF DEVELOPMENT, DIVISION OF CORRECTIONAL HEALTH CARE SERVICES (DCHCS)

The California Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category was approved March 19, 2007.

REGIONAL RECRUITMENT AND RETENTION WORKFORCE MANAGER, PLATA WORKFORCE PLANNING AND MANAGEMENT DEVELOPMENT, DIVISION OF CORRECTIONAL HEALTH CARE SERVICES, SOUTHERN REGION

The California Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category was approved March 19, 2007.

REGIONAL RECRUITMENT AND RETENTION WORKFORCE MANAGER, PLATA WORKFORCE PLANNING AND MANAGEMENT DEVELOPMENT, DIVISION OF CORRECTIONAL HEALTH CARE SERVICES, NORTHERN REGION

The California Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category was approved March 19, 2007.

CHIEF DEPUTY DIRECTOR/CHIEF OF ADMINISTRATION, OSI

The California Health and Human Services Agency, Office of Systems Integration (OSI)'s proposal to allocate the above position to the CEA category was approved March 27, 2007.

ASSISTANT DEPUTY DIRECTOR, FINANCIAL MANAGEMENT BRANCH

The Department of Rehabilitation's proposal to re-allocate the above position to the CEA category was approved March 27, 2007.

DIRECTOR OF ORGANIZATIONAL AND HUMAN DEVELOPMENT

The Department of Food and Agriculture's proposal to allocate the above position to the CEA category was approved March 27, 2007.

PROJECT MANAGER, PENSION SYSTEM REPLACEMENT

The California Public Employee's Retirement Systems' request to extend the above position to the CEA category through September 30, 2009, or for the duration of the project, was approved March 27, 2007.

ACTION: NOTED

19. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

20. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE PRESENTED

21. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE PRESENTED

22. BOARD ACTIONS ON SUBMITTED ITEMS

ACTION: See Minutes on Pages 23–25

A D J O U R N M E N T

*** RETIREMENT RECEPTION FOR FLOYD D. SHIMOMURA,
EXECUTIVE OFFICER**

Upon adjournment of the board meeting, a retirement reception was held in recognition of Floyd D. Shimomura's service to the State Personnel Board as Executive Officer.

**WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 13 – 15
AS NOTED.**

13. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

(1) CASE NO. 05-0053A

Appeal from dismissal

Classification: Park Maintenance Assistant

Department: Department of Parks and Recreation

Proposed decision rejected October 10, 2006.

Oral argument heard February 6, 2007.

Case ready for decision by FULL Board.

NO ACTION

(2) CASE NO. 05-2211A

Appeal from dismissal

Classification: Senior Tax Compliance Representative

Department: Employment Development Department

Proposed decision rejected September 20, 2006.

Oral argument heard March 2, 2007.

Case ready for decision by FULL Board.

NO ACTION

(3) CASE NO. 06-1433

Appeal from official reprimand

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

NO ACTION

- (4) **CASE NO. 06-0188A**
Appeal from dismissal
Classification: Physician and Surgeon, CF
Department: Department of Corrections and Rehabilitation

Proposed decision rejected February 20, 2007.
Oral argument heard April 3, 2007.
Case ready for decision by FULL Board.

NO ACTION

- (5) **CASE NO. 05-0947A**
Appeal from dismissal
Classification: Housing Finance Specialist (General)
Department: California Housing Finance Agency

Proposed decision rejected July 11, 2006.
Oral argument heard December 5, 2006.
Case ready for decision by FULL Board.

NO ACTION

- (6) **CASE NO. 05-0927BA**
Appeal for back salary determination
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected December 5, 2006.
Oral argument heard April 3, 2007.
Case ready for decision by FULL Board.

NO ACTION

- (7) **CASE NO. 06-1310**
Appeal from 14 working days suspension
Classification: Regional Administrator
Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

NO ACTION

B. CASES PENDING

ORAL ARGUMENTS

NONE

C. CHIEF COUNSEL RESOLUTIONS

On April 17, 2007, the Board took the following action on the case listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Costigan – Aye

(1) CASE NO. 05-3741

Appeal from dismissal

Classification: Medical Technical Assistant, CF

Department: Department of Corrections and Rehabilitation

Request for Order to Show Cause against Department of Corrections and Rehabilitation

ACTION: SUBMITTED

COURT REMANDS

NONE

STIPULATIONS

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On April 17, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Costigan – Aye

(1) CASE NO. 06-3704

Appeal from five percent reduction in salary for 18 months

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision modifying the reduction in salary but further reduced the penalty to a five-percent reduction in pay for three months.

- (2) **CASE NO. 06-3668**
Appeal from official reprimand
Classification: Maintenance Mechanic
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the official reprimand.
- (3) **CASE NO. 06-2869**
Appeal from dismissal
Classification: Officer
Department: Department of California Highway Patrol
ACTION: The Board adopted the ALJ's Proposed Decision modifying the dismissal and directed staff to prepare a resolution containing the Board's specific findings.
- (4) **CASE NO. 06-3556**
Appeal from ten work days suspension
Classification: Associate Warden
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.
- (5) **CASE NO. 06-3477**
Appeals from 10 working days suspension
Classification: Senior Legal Typist
Department: Legislative Counsel of California
ACTION: The Board adopted the ALJ's Proposed Decision modifying the suspension.
- (6) **CASE NO. 06-1858**
Appeal from 10 percent reduction in salary for 18 months
Classification: Teacher (Correctional Facility)
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted in part the ALJ's Proposed Decision but rejected the finding of unlawful retaliation.
- (7) **CASE NO. 05-1048**
Appeal from suspension for three pay periods and demotion
Classification: Supervising State Park Ranger
Department: Department of Parks and Recreation
ACTION: The Board adopted the ALJ's Proposed Decision revoking the suspension and sustaining the demotion.

- (8) **CASE NO. 07-0008**
Appeal from letter of reprimand
Classification: Specialist, Student Services Planning and Development
Department: California Community Colleges System Office
ACTION: The Board adopted the ALJ's Proposed Decision dismissing the appeal as moot.
- (9) **CASE NO. 05-3703**
Appeal from 30 working days suspension
Classification: Officer
Department: Department of the California Highway Patrol
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

- (10) **CASE NO. 05-1039AR**
Appeal from dismissal
Classification: Caltrans Maintenance Supervisor
Department: Department of Transportation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On April 17, 2007, the Board took the following action on the case listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Costigan – Aye

April 17, 2007

- (1) **CASE NO. 00-3446P**
Appeal to set aside resignation
Classification: Police Officer
Department: California State University, Fresno
ACTION: Petition for rehearing denied.
- (2) **CASE NO. 06-0976P**
Appeal from dismissal
Classification: Satellite Wagering Facility Lead Janitor
Department: 22nd District Agricultural Association
ACTION: Petition for rehearing denied.
- (3) **CASE NO. 06-2823P**
Appeal from dismissal
Classification: Workers Compensation Claims Adjuster
Department: State Compensation Insurance Fund
ACTION: Petition for rehearing granted and remanded to the ALJ for a hearing on the merits.

WHISTLEBLOWER NOTICE OF FINDINGS

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of an oral argument before the Board.

- (1) **CASE NO. 05-1007EA**
Appeal from denial of discrimination complaint
Classification: Outside contractor
Department: Department of Transportation

Proposed decision rejected December 19, 2006.
Oral argument originally set April 3, 2007, Sacramento.
Oral argument continued.

NO ACTION
- (2) **CASE NO. 03-3412A**
Appeal from rejection during probation
Classification: Correctional Counselor II (Supervisor)
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted April 3, 2007.
Pending transcript.

NO ACTION

(3) CASE NO. 06-0760A

Appeal from rejection during probation

Classification: Parole Agent I (Adult Parole)

Department: Department of Corrections and Rehabilitation

Proposed decision rejected November 14, 2006.

Oral argument originally set February 5-6, 2007, Los Angeles.

Continued to May 8, 2007, Sacramento.

NO ACTION

(4) CASE NO. 06-0235A

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision rejected January 9, 2007.

Oral argument originally set May 8, 2007, Sacramento.

Oral argument continued.

NO ACTION

(5) CASE NO. 06-3023A

Appeal from ten percent reduction in salary for three months

Classification: Psychiatric Technician

Department: Department of Corrections and Rehabilitation

Proposed decision rejected March 2, 2007.

Transcript prepared.

NO ACTION

(6) CASE NO. 05-2888PA

Appeal from dismissal

Classification: Staff Services Analyst (General)

Department: Department of Consumer Affairs

Petition for rehearing granted October 31, 2006.

Oral argument originally set March 1-2 2007, Sacramento.

Continued to June 5-6, 2007, Sacramento.

NO ACTION

(7) CASE NO. 05-1285A

Appeal from dismissal

Classification: Public Safety Dispatcher II

Department: Department of California Highway Patrol

Proposed decision rejected January 9, 2007.

Oral argument originally set June 5-6, 2007, Sacramento.

Oral argument continued.

NO ACTION

(8) CASE NO. 05-0929PA

Appeal from rejection during probation

Classification: Health Program Manager I

Department: Department of Health Services

Petition for Rehearing granted February 20, 2007.

Pending oral argument May 8, 2007, Sacramento.

NO ACTION

(9) CASE NO. 05-1067A

Appeal from dismissal

Classification: Investigator

Department: Department of Motor Vehicles

Proposed decision rejected January 9, 2007.

Pending oral argument May 8, 2007, Sacramento.

NO ACTION

(10) CASE NO. 04-2919ERPA

Appeal of discrimination and retaliation

Classification: Physician and Surgeon

Department: Department of Corrections and Rehabilitation

Petition for rehearing granted September 20, 2006.

Oral argument originally set February 5-6, 2007, Los Angeles.

Continued to May 8, 2007, Sacramento.

NO ACTION

15. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases were heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE PRESENTED

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On April 17, 2007, the Board adopted, as indicated below, the following items as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Costigan – Aye

- (1) CASE NO. 05-2895**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; a negative driving record.
ACTION: DENIED
- (2) CASE NO. 05-3675**
Classification: Hospital Police Officer
Department: California Department of Mental Health
Issue: Suitability; hard drug usage.
ACTION: GRANTED
- (3) CASE NO. 05-1977**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; a negative driving record.
ACTION: DENIED
- (4) CASE NO. 06-0677N**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; an arrest/conviction record.
ACTION: DENIED

April 17, 2007

- (5) **CASE NO. 05-1570**
Classification: California Highway Patrol
Department: CHP Cadet
Issue: Suitability; omitted information and a negative employment record.
ACTION: DENIED
- (6) **CASE NO. 05-1687**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; whether appellant's name was properly withheld for DUI convictions.
ACTION: WITHDRAWN
- (7) **CASE NO. 05-2290**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; DUI convictions.
ACTION: DENIED
- (8) **CASE NO. 05-3696**
Classification: California Highway Patrol
Department: CHP Cadet
Issue: Suitability; omitted pertinent information.
ACTION: DENIED
- (9) **CASE NO. 05-1170**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; whether appellant's name was properly withheld for a DUI conviction.
ACTION: GRANTED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases were heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board was presented recommendations by a Hearing Panel on each appeal.

On April 17, 2007, the Board adopted, as indicated below, the following items as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Costigan – Aye

- (1) **CASE NO. 06-1477N**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: The appellant was medically disqualified due to not meeting the vision acuity standards needed to perform the duties of the job
ACTION: DENIED
- (2) **CASE NO. 06-4234N**
Classification: Caltrans Heavy Equipment Mechanic
Department: California Department of Transportation
Issue: The appellant was medically disqualified due to failing a pre-employment drug test.
ACTION: DENIED

C. **EXAMINATION APPEALS**
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS

NONE PRESENTED

D. **RULE 211 APPEALS**
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS

Cases were heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board was presented recommendations by a Staff Hearing Officer for final decision on each appeal.

On April 17, 2007, the Board adopted, as indicated below, the following items as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Costigan – Aye

- (1) **CASE NO. 06-3629N**
Classification: Psychiatric Technician
Department: State Personnel Board
Issue: Pursuant to Rule 211, the appellant is requesting approval from the SPB's Executive Officer to take a state examination after having been dismissed from State service.
ACTION: DENIED

(2) CASE NO. 06-1755N

Classification: Transportation Engineer

Department: California Department of Transportation

Issue: Appellant requires permission under § 211 of the California Code of Regulations, because of being dismissed from State employment by adverse action.

ACTION: DENIED

E. REQUEST TO FILE CHARGES CASES

NONE

PETITIONS FOR REHEARING CASES

On April 17, 2007, the Board adopted, as indicated below, the following item as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Costigan – Aye

(1) CASE NO. 05-3628P

Classification: Correctional Officer

Department: Department of Corrections & Rehabilitation

Issue: The appellant states that the SPB did not receive information submitted to the Board in support of her initial appeal.

ACTION: DENIED

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. CASE NO. 05-0947A

Appeal from dismissal. Housing Finance Specialist (General). California Housing Finance Agency. (Oral argument held December 5, 2006.)

NO ACTION

7. CASE NO. 06-1814

Appeal from official letter of reprimand. Correctional Officer. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

NO ACTION

8. CASE NO. 06-1310

Appeal from 14 working days' suspension. Regional Administrator. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

NO ACTION

9. CASE NO. 05-1977

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

ACTION: DENIED

10. CASE NO. 05-2290

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

ACTION: DENIED

11. CASE NO. 05-1170

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

ACTION: GRANTED

**12. HEARING – PUBLIC HEARING ON PROPOSED COST SAVINGS
REGULATIONS UNDER GOVERNMENT CODE SECTION 19130, SUBDIVISION (A)**

(Hearing held January 9, 2007 and April 3, 2007.)

NO ACTION

13. CASE NO. 05-0053A

Appeal from dismissal. Park Maintenance Assistant. Department of Parks and Recreation. (Oral argument held February 5-6, 2007.)

NO ACTION

14. CASE NO. 05-2211A

Appeal from dismissal. Senior Tax Compliance Representative. Employment Development Department. (Oral argument held March 2, 2007.)

NO ACTION

15. CASE NO. 05-3741

Appeal from dismissal. Medical Technical Assistant, CF. Department of Corrections and Rehabilitation. Request for Order to Show Cause against Department of Corrections and Rehabilitation. (Presented to the Board March 2, 2007.)

NO ACTION

16. CASE NO. 06-0188A

Appeal from dismissal. Physician & Surgeon, CF. Department of Corrections and Rehabilitation. (Oral argument held April 3, 2007.)

NO ACTION

17. CASE NO. 05-0927BA

Appeal for back salary determination. Correctional Sergeant. Department of Corrections and Rehabilitation. (Oral argument held April 3, 2007.)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

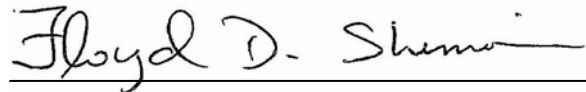
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on April 17, 2007.

VOTE: Harrigan, Sheehan, Costigan – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura", written over a horizontal line.

Floyd Shimomura
Executive Officer
California State Personnel Board